

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, MAY 11, 1995

Chairman Tull called the meeting to order at 1:35 p.m. at the Red Lion Inn at the Quay, Vancouver, Washington.

MEMBERS PRESENT: ROBERT M. TULL, Chairman; PATRICK GRAHAM, and EDWARD HEAVEY.

OTHERS PRESENT: FRANK MILLER, Director; BEN BISHOP, Deputy Director; SHARON TOLTON, Assistant Director, Special Operations; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; CARRIE TELLEFSON SUTHERLAND, Special Assistant, Public Affairs; KRISTI TELLEFSON, Financial Investigations Unit; KIM O'NEAL, Assistant Attorney General; and SUSAN GREEN, Executive Assistant.

Chairman Tull said there is a published agenda for today's meeting. He asked if there were any changes. **Director Miller** said there would be a formal certification review added for Paramount Manufacturing but there would not be any staff reports in today's meeting.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

Commissioner Graham moved for approval of the list as printed; **Commissioner Heavey** seconded the motion; motion carried with three aye votes. **Chairman Tull** noted there was a lot of tribal certification activity. **Director Miller** said the tribal certification activity would continue to grow in the months to come.

MANUFACTURER

Paramount Games

Ms. Cass-Healy said Paramount Games submitted an application on October 7, 1994, for a manufacturing license to sell pull tabs in Washington State. Paramount is located in Wheatland, Pennsylvania. They were incorporated June 3, 1994. Paul Swartz is the president, secretary, treasurer, and chairman of the board of the company. Paramount Games is an "S" corporation; they are authorized one million shares of common stock; 72,425 shares have been issued as of

this date. Paul and Sally Swartz own 77 percent of the outstanding shares, Rich Love owns 6.9 percent and Frank Taverite owns 5.18 percent. There are some additional stockholders with small amounts of stock. Paramount Games is currently not licensed in any other jurisdiction. They do have applications pending in Pennsylvania, Kentucky, Ohio and Maine; no problems were brought forward by these jurisdictions when they were contacted. An on-site financial background investigation was conducted at the offices of Paramount Games in Wheatland, Pennsylvania, on April 3 and 4, 1995, by Special Agents Griffin and Holland. The financial records of the company were reviewed to verify corporation ownership and source of funds to start the business and to fund the business on a continuing basis. Additionally, the company's product and manufacturing processes were observed and documented for compliance with rules and regulations. Loan and lease documents were also reviewed. Based on the investigation, staff is recommending licensing as a punchboard/pull tab manufacturer.

Director Miller said this manufacturer leases out printing of the product but completes the manufacturing process themselves. Staff looked at this and found there was no problem under the current rules. They are simply leasing out part of the process with the goal of getting out a higher-quality product. He said initially Richard Johnson, formerly of Worldwide Press, was involved in this company, but he is no longer part of the process.

Commissioner Heavey asked what a banded ticket machine is. **Director Miller** said it's the machine that takes the paper, cuts it, prints serial numbers on it, folds it, puts a band around it, and releases it. It's a one-step process for making banded tickets, which are very popular because they're inexpensive to make. **Mr. Bishop** said Richard Love received stock for manufacturing these machines. He is contracted to do six machines and two are complete. **Commissioner Heavey** noted they sold their first two banded ticket machines for \$75,000. **Ms. Cass-Healy** said these were sold to the company that put them together. It was a sell/lease back agreement for up-front financing. **Director Miller** said it is amazing that anyone can even build these machines. **Commissioner Graham** asked if anyone else manufactures these machines. **Director Miller** said no and that is why this man is very much in demand. The real challenge is to keep the machines working; if they get out of tolerance, it affects the product. **Ms. Cass-Healy** said she would get additional information for the commissioners.

Commissioner Graham moved for certification of Paramount Games as a pull tab manufacturer. **Commissioner Heavey** seconded the motion and asked about the stock. **Ms. Cass-Healy** said there were different arrangements; some of it is based on sweat equity, some of it is based on outright purchasing. Vote taken; motion carried with three aye votes.

REVIEW OF FRIDAY'S AGENDA

Ms. Sutherland said there are five groups of rules up for final action tomorrow; the petition by the Recreational Gaming Association, which changes the closure period for card room hours, a group of housekeeping changes, and also the Washington State Association of County Treasurers' (WSACT) petition, regarding revocation of licenses for failure to pay local gambling taxes. Rule 230-04-400 may be proposed to be held over due to an amendment. In the handout packet is a memo Jon McCoy wrote to the commissioners for consideration Friday with respect to the rule regarding cost reimbursement for the agency in pursuing failure to pay

gambling tax cases.

Also up for final action is the section on the licensing of manufacturers or sales permits and the Phase II implementation rule. For discussion and possible filing is an amendment to the rule that sets forth the reasons for denial or revocation of licenses, and staff is proposing this amendment be filed as an emergency. Under other business, Big Brothers and Sisters is coming before the Commission to request permission to conduct a house raffle in which the raffle prize is more than \$40,000. **Mr. Bishop** said there is a request for an exemption for the house raffle in the handout packet right behind the Paramount Games documentation.

PHASE II REVIEW

Nooksack Casino

Ms. Tolton said information for the Phase II Nooksack review is in the handout packet. The Nooksack Tribe has a contractual financial arrangement with Exports Inc. She said the facility is located in Deming approximately 20 miles east of Bellingham. The Tribe has approximately 1,300 members. This facility opened on July 19, 1992, under the terms of a tribal-state compact signed by then-Governor Booth Gardner and Tribal Chairman Hubert Williams. The Tribe employs 245 people; 65 of these are tribal members. The breakdown is 45 Nooksack tribal members, and 20 other Native Americans. On January 26, 1995, an amendment to the compact was initiated that provided an increase in scope to be implemented in two phases. The Commission was briefed regarding these phases in April.

Phase I became effective when that amendment was implemented. The Tribe has been operating at Phase I levels, which are 31 tables plus one optional nonprofit table, 112 hours per week averaged annually, and \$250 per wager wagering limits. The Phase II scope, which the Tribe desires to go to, is 50 tables plus two optional nonprofit tables, \$500 wagering limits and 140 hours per week averaged annually.

The Nooksack Tribe has a three member gaming commission appointed by the Nooksack Tribal Council. None of the commissioners are members of the Tribal Council, although one is related to a council member. One commissioner has family members who work for the gaming operation. The Nooksack Gaming Agency has a director who was selected by the Tribal Gaming Commission and there are four agents and one licensing agent currently. None of the agents work for the tribal government in any other capacity. Four of the five agents are Nooksack Tribal members. No incidents have been noted since the casino opened in April 1993 that would indicate the governmental family relationships noted have interfered with any regulatory or corrective actions taken by the Tribal Gaming Agency.

During the last several months, Gambling Commission staff have been working closely with the Tribal Gaming Agency, and since March (1995), have been doing an in-depth review consistent with WAC 230-48-010. This investigative review was to confirm compliance with this WAC and also with Section 3.0 within the tribal-state compact. The following are facts from Case Report #95-00213, included in the handout packet. There have been no sanctions imposed on the Tribe by the federal district court or National Indian Gaming Commission. There have been no

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substantial violations of the tribal-state compact or appendix A. There have been no material adverse impacts on the surrounding communities. **Ms. Tolton** said that Sheriff Brandland was notified in writing on May 1, 1995, regarding the hearing and soliciting comments. No comments have been received and cooperation is working very effectively within the community with the Sheriff's Office and the Tribe. The first community contribution the Tribe distributed under the terms of the compact was \$104,000 for the 1993-94 period. Currently, the 2.5 percent contribution is due April 16, 1995, and that amount is \$138,000.

Ms. Tolton said the Tribal Gaming Agency has become increasingly independent and is developing into the primary regulatory body in the facility. Regulations and programs for reviewing casino operations and systems have been developed and the Tribe has been licensing employees and vendors. The staff did have some areas of concern through the investigation and since focus has changed to these areas, the Tribe has been working diligently to correct these issues. The following are still of concern and **Ms. Tolton** wanted to clarify a couple of the issues noted. The Tribal Gaming Agency does need to establish programs for review of casino operations and internal audit procedures, and the executive director has agreed to work with staff on those. The second issue noted was in regard to job descriptions and actual duties. The Tribe has actually corrected "duties" as they pertain to agents functioning within the facility, but staff does have some issues related to implementation of some very new policies and procedures in their new manual, a copy of which has been provided to staff. Staff also believes that some experience in the area of financial accounting within the Tribal Gaming Agency is critical to credible regulatory programs and the Tribe is soliciting to hire someone with this background. Staff is recommending the following:

Conditional approval of Phase II scope implementation at the Nooksack facility for a period of six months under the following terms:

- * The Nooksack Tribal Gaming Agency will fully implement recently established programs outlined in the policies and procedures manual.
- * Review direct compatibility with job functions and job duties.
- * Review that the Gaming Agency implements what they have recorded regarding regulatory audit programs.

During the six-month conditional approval, staff will assess effectiveness of the regulatory programs implemented and adherence to the new policies. Staff is willing to work closely with them over the next six months and staff will provide the Commission with an updated report at the November meeting. The Tribe has agreed that if the conditions are not met at that time or other provisions of Section 3.0 are violated, that Phase I scope will be immediately re-implemented at that time.

Harry Cooper, Sr., Chairman of the Tribal Gaming Agency, Nooksack Tribe, thanked the staff of the Gambling Commission for helping them. He said staff helped give them a jump-start into implementing many changes. There are six agents now, although they lost one of their agents to the Chehalis facility. **Chairman Tull** asked if the Council will be responsive to the Tribal Gaming Agency as they try to implement the changes and improvements. **Mr. Cooper**

said yes. They have been having meetings with the Council every other week and those meetings will continue. **Chairman Tull** asked where the funding comes from to finance the Tribal Gaming Agency. **Mr. Cooper** answered the Tribal Gaming Agency is funded through the Council by the Tribe. They are appointed by the Tribal Council. **Chairman Tull** asked if reimbursement was being received in a timely manner from the Nooksack Tribe. **Director Miller** said yes, the Nooksack Government has really worked well with staff. They started from scratch with a new gaming agency and one of the goals was to employ as many tribal members as they could. Instead of going out and recruiting, they have trained their own people and have worked closely with staff to become more efficient and effective. The Tribe also made a community contribution that is probably equal to their profit.

Chairman Tull said the order supplied by Ms. Tolton was very appropriate for the conditional circumstances. He said because it is conditional and because the Commission has received such convincing support from staff for the improvements that have been made, he is comfortable with proceeding on the conditional basis. **Chairman Tull** moved for adoption of the Order on a conditional Phase II. **Commissioner Graham** seconded the motion. **Chairman Tull** asked how soon the Tribe would implement the changes if this were to pass today. **Mr. Cooper** said they would be implemented as soon as he can get to a phone. **Chairman Tull** asked if staff is prepared for immediate implementation. **Director Miller** said staff expected it. He asked Mr. Cooper to share what impacts Phase I implementation has had on profitability. **Mr. Cooper** said that ever since the Nooksack went to the \$250 limits instead of the \$100 limits, the business has more than doubled in the past year. **Chairman Tull** asked how many tables the casino would operate at the higher limits. **Mr. Cooper** answered they will try different combinations. They have had complaints on the weekends because there aren't enough tables with smaller limits. On the weekends they go from \$3 to \$5 because of the crowd that comes in. Quite a few of the tables go from \$10 to \$50 and during the week it is starting to really increase.

Chairman Tull said there is a motion and a second to approve the shift to Phase II for the Nooksack Tribe on a conditional basis, on Order number 95-00213. All in favor; motion carried with three aye votes.

QUALIFICATION REVIEWS **40 et 8 #99, Vancouver**

Ms. Tellefson said this organization is located in Vancouver and is a patriotic organization with a Class "L" bingo license, and has licenses in punchboards/pull tabs and amusement games. The organization was first formed in 1933 and has been licensed since 1974. They have 230 voting members. The organization maintains a community service club in Vancouver. Members meet at least once each month to conduct club business and to participate in club activities including parties, picnics, golf tournaments and recognition ceremonies. Total contributions for this year was \$74,302 and scholarships totaled \$48,864. Net gambling revenues totaled \$466,453 for the year; bingo net income was \$385,122 and they spent \$245,945 in support of their stated purpose including \$48,591 for administrative costs. Staff recommends qualification as a patriotic organization for the purposes of gambling in the state of Washington.

Chairman Tull said this organization has been before the Commission live for at least two presentations in the past.

AMERICAN RED CROSS, Longview

Ms. Tellefson said this is a charitable organization with a Class "H" bingo license and a punchboard/pull tab license. The organization was first formed in 1917 and they have been licensed since 1987. There are 19 voting members who are also the board members. The organization is an authorized chapter of the American National Red Cross, Washington, D.C. They maintain an administrative office in Longview and they control the operations of a community swimming pool in Kelso. Charitable services consist of six major groups including a disaster services program and a military social services program that provides emergency communication links between military personnel and their families. They also have a blood collection services program, and health and safety programs teaching such skills as CPR and first aid. They have a youth activities program and a public and professional education program. Clients served totaled 24,184. Services were provided by 15 employees and 676 volunteers. Net gambling revenues totaled \$229,055 for the year; bingo net income was \$117,271. They spent \$495,918 in support of their stated purposes including \$160,675 to cover administrative costs. Staff recommends qualification as a charitable organization for the purposes of gambling in the state of Washington.

Commissioner Graham asked about the administrative expense. He asked if it was high. **Mr. Bishop** said he thought it was fairly high but it is below the standard that the Commission set and it's below the national standard. **Commissioner Graham** said the one before (40 et 8) is doing \$4 million and they are only spending 19 percent on administration. This one is half the size and 32 percent administration. **Mr. Bishop** said most of the programs were contributions and scholarship, which are lower cost functions. **Director Miller** said one is a small non-profit organization and the other is a national organization providing relief.

L.O.O.M. #1774, Vancouver

Ms. Tellefson said this is a fraternal organization with a Class "J" bingo license, a punchboard/pull tab license and a raffle license. They were first formed in 1957 and have been licensed since 1974. They have 730 voting members. The organization operates a recreational and social facility in Vancouver. Members participate in weekly dinners, holiday socials and recreational games. During the year a club was started to promote teenage activities. Additionally, the organization is raising money to remodel the Washington Building, which is an orphanage. LOOM organizations throughout the state have raised 2/3 of the funds needed to remodel the orphanage. Clients served consisted of 730 members and 1,000 of the general public. Services were provided by nine employees and 142 volunteers. Contributions totaled \$31,662. Net gambling revenues totaled \$238,364 for the year and bingo net income totaled \$184,257. They spent \$273,763 in support of their stated purposes including \$16,742 to cover administrative costs. Staff recommends qualification as a fraternal organization for the purpose of conducting gambling in the state of Washington.

Commissioner Graham asked why the net revenues are low. **Ms. Tellefson** said part of the

reason is because of the competition in the area and some of their customers have gone to Oregon to gamble. During the last part of the fiscal year, staff was cut to alleviate expenses, they started using bingo card minders to try to bring in more patrons. They have also changed the bingo program around to better compete with other bingo halls in the area. **Commissioner Graham** said that it didn't look like 40 et 8 had been affected by the Oregon competition. **Bob**, (from the audience) said road construction has also been a factor for the last 10 months.

Chairman Tull asked what it means when it says they have a minus figure for excessive reserves. **Ms. Cass-Healy** said it means their expenses and liabilities are more than their cash assets, basically. **Mr. Bishop** said the rule that was passed as far as accumulating funds says organizations are allowed to have 50 percent of operating expenses for the next year.

Chairman Tull asked if they had no excessive reserves. **Director Miller** said no but they are in compliance with our rules.

Commissioner Heavey moved for qualification. **Commissioner Graham** seconded the motion; motion carried with three aye votes.

Commissioner Graham asked about the fourth group listed on the agenda; **Ms. Cass-Healy** said there was one question asked when staff presented it last month and this is just a follow up to that question.

GENERAL DISCUSSION

Commissioner Heavey asked about an article he read in the newspaper where it stated that the Yakama Tribe is asking for three sites for casinos and some indication that the administration has no serious objection to that. He knows the matter hasn't come before the Commission and he didn't know the status of negotiations but it is his understanding the Commission has not authorized multiple locations. If that is part of the negotiations, he believes the Commission ought to be provided with a complete analysis showing the impact on the other tribes, showing the impact on other gambling in the state of Washington, whether that does constitute an expansion of gambling, and a complete summary of long term implications for multiple locations, particularly in the light of the fact that most of the compacts have a "most favored nation" kind of approach. If something is approved for one tribe, it is available to other tribes. He asked what effect will that have on the Tulalips, the Muckleshoots, and other tribes that have land available to open multiple casinos. He said he thought the Commission should explore this area before allowing one Indian nation multiple sites.

Commissioner Graham reminded the Commission it approved a compact with the Colville Confederated Tribes that allowed three locations. **Director Miller** said that was three years ago, and that compact was not approved or signed by the Governor. With the 15 compacts that have been introduced since, they are allowed only one location on the reservation. **Chairman Tull** said that at the time, there was the notion that the geography of the Colville reservation and with its population being spread out, they would be able to operate on that basis. He thinks that is far cry from multiple locations on this side of the mountains. He said Commissioner Heavey's comments are ones that are appropriate if it gets to that point. **Director Miller** said this is an issue in the negotiations with the Yakama Tribe. Staff has gone on record as saying this is a point of contention.

Chairman Tull said that Ms. Sutherland has indicated that TV-W, the Washington State version of C-Span, may be here as early as tomorrow to record the meeting, unless there's a significant objection the Commission won't stand in the way of trying to make these proceedings more widely available.

Director Miller said there is a full agenda tomorrow, which includes the WSACT's petition.

Chairman Tull adjourned the meeting.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, MAY 12, 1995

Chairman Tull called the meeting to order at 10:00 a.m. at the Red Lion Inn at the Quay, Vancouver, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; PATRICK GRAHAM, and EDWARD HEAVEY.**

OTHERS PRESENT: **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; SHARON TOLTON, Assistant Director, Special Operations; KIM O'NEAL, Assistant Attorney General; CARRIE TELLEFSON SUTHERLAND, Special Assistant, Public Affairs; and SUSAN GREEN, Executive Assistant.**

Chairman Tull said the Commission misses Commissioners Mosbarger and Divine and hope their recoveries are swift. He asked if there were any changes to the published agenda and if the Commission was going to have an executive session. **Director Miller** said there would be no executive session today.

APPROVAL OF THE MINUTES FROM THE APRIL 13-14, 1995, MEETINGS

Commissioner Heavey moved for acceptance of the minutes from the April 13-14, 1995, Commission meeting in Yakima, Washington, as set forth and printed in the agenda packet; **Commissioner Graham** seconded the motion; motion carried with three aye votes.

STAFF REPORTS

Tribal Gaming Update

Director Miller said there were three new compacts approved by the Commission. The Upper Skagit Tribe had their ground breaking ceremony on May 9, 1995, and Chairman Tull attended on behalf of the Commission. The Muckleshoots opened a temporary facility in Auburn last week; they are currently building a permanent facility, which will be ready this Fall. The Chehalis Tribe is scheduled to open its facility within the next four to five weeks in Oakville. Construction is now underway at Squaxin Island. There is a lot of activity with tribal gaming in the state now with regard to Class III compacts.

Negotiations are ongoing with other tribes. There have been a lot of comments and concerns in the Vancouver area regarding the Yakama Indian Tribe and a possible location for their proposed facility and other issues that need to be resolved. Staff will be meeting with the Tribe next week.

Federal Legislation

Director Miller said two bills have been introduced in Washington, D.C., on the Indian Gaming Regulatory Act. Copies of both these bills are in the handout packets. The first bill is from the Indian Affairs Committee, Senator McCain, for amendments to the Indian Gaming Regulatory Act. Staff will be giving an overview next month in Spokane on both of these bills.

The second bill introduced is the Fair Indian Gaming Act. This is a new bill that would amend IGRA dramatically and clarifies a lot of issues regarding scope of gaming. Copies of both bills are available from the Commission offices.

ADOPT OR AMEND RULES

CARD ROOM PETITION

Amendatory Section -- WAC 230-40-400 - Hours limited for card games

Ms. Sutherland said this petition was proposed by the Recreational Gaming Association and would change the closure period for card rooms from between 2 and 6 a.m. to between 4 and 8 a.m. This would require director approval as well as approval from local law enforcement agencies and the Washington State Liquor Control Board. This is up for final action. Staff has some statistics to share: There are 112 licensed card rooms and staff has notified 57 law enforcement agencies regarding these requests. There have been responses from 16 law enforcement agencies; seven have requested denial of all card rooms in their jurisdiction, seven have requested denying certain card rooms, and six have approved affirmatively, although they are not required to respond if they are affirmative. Staff has received a total of 52 requests from card rooms; 44 have been approved and eight have been denied. Staff reviews the history of the licensee, Liquor Board input and law enforcement input. Staff recommends approval of the petition.

Rick Davis, of Charlie Macks, located in North Seattle and 21 Club, located in South Seattle, said last month he told the Commission the 21 Club was up about 30 percent by having the extra two hours. Since the Muckleshoots opened they are down 30 percent. A lot of the card rooms in the south end of Seattle have gone down in business, so he hopes the Commission will approve this petition to help them stay where they were before.

Mark Mitchell, from Drift-On-Inn and Blackjack Cafe said that before Marysville (Tulalip) opened, they had five blackjack games going and now have none. They are reduced to quarter poker. They have done well with the new hours. He stopped in the Federal Way area on the way to the meeting and reported they are down 30 to 50 percent since the Muckleshoots opened. He believes the card rooms need this 4:00 a.m. change to maintain status quo.

George Teeny, New Phoenix and the Last Frontier in La Center, said he hopes this will be passed. He said the 4:00 a.m. closure time has allowed them to keep some of their revenue. The new time has been a blessing to all the card rooms.

Ron Porter, President of the Recreational Gaming Association, said there hasn't been any problems since they switched to 4:00 a.m. closure. This issue is the single most important issue in leveling the playing field as far as card rooms are concerned. He said if they are denied this change, it would have a tremendous impact on the card room association throughout the state.

Chairman Tull said the Commission has received a number of written comments regarding this rule and these letters have been provided to all the Commissioners.

Ms. Sutherland said there have been a couple of letters against the rule change; one is from Senator Patricia Hale and the other is from Tacoma Police Chief Ray Fjetland. **Chairman Tull** said the rule, as it is now written, places discretion on the local jurisdiction to approve or disapprove. Some of the jurisdictions didn't respond quickly. It appears that this change is not causing too many problems.

Commissioner Heavey asked about the letter received from the Liquor Control Board. He asked whether that problem has been resolved. **Ms. Sutherland** said that the Liquor Board is now notified and has the opportunity to express any concerns as well. **Chairman Tull** asked if the Liquor Board had any substantive issues or if they just wanted to make sure they had a chance to get involved.

Ms. O'Neal said she represents the Liquor Control Board and the main concern about this rule change is to be sure they are notified as to which of these locations are going to be open after hours because it will provide the Liquor Control Board with some potential problems for enforcement. Their concern is that alcohol must stop being served after 2:00 a.m. They also want to be sure that those liquor licensees who have had past problems will be looked at more closely and that they will have an opportunity to comment.

Chairman Tull asked Director Miller if, on an operational level, the Liquor Control Board had a concern, what would staff do in reviewing the request of that card room.

Director Miller said that if the Liquor Control Board has a problem with a certain establishment and it is expressed in writing, then that establishment would be turned down by the Gambling Commission. **Ms. O'Neal** said the only other concern the Liquor Board had was that the operators are made aware that this is an additional activity for which they have to get permission from the Liquor Control Board as well, per an existing rule that licensees have to get permission from the Liquor Control Board for additional activities. As long as licensees are aware they need to get Liquor Board's permission, there shouldn't be any problem.

Commissioner Heavey said the way he reads the rule, subsection (b) would indicate if the Liquor Board said no, then that would deny the card room to be open to 4:00 a.m. He asked if that was correct that the card rooms must have to receive specific approval from the Liquor Control Board prior to adopting the new hours. **Director Miller** said that if there are no objections, the Commission would approve the request. Staff now has a process where they give everyone so many days to respond. **Commissioner Heavey** asked if the Liquor Control Board came to the conclusion that the hours were leading to a violation of the liquor laws, could they withdraw their approval and that would result in going back to the 2:00 a.m. closing.

Chairman Tull said he agrees with Director Miller in that this is a privilege type of change. It is for those establishments that have a good relationship with the regulatory agencies, and those that do not have good relationships with state agencies or local jurisdictions are not going to have that opportunity. He is supportive of the change.

Commissioner Heavey asked if there should be something added to say that if other agencies or local law enforcement agencies determine it is inappropriate to change these hours, the privilege will be withdrawn. **Chairman Tull** said the question really is if the approval can be withdrawn based upon the subsequent receipt of an objection from the local law agency or another state agency. He said he doesn't see anything in the rule that establishes a term for the approval and it would be his understanding the director would be able to respond very quickly. He asked how that would fit as far as the normal flow.

Director Miller said this is a new situation. He said there could be a statement that says the director has the discretion to approve or deny. **Mr. Bishop** said the approval letters state that the director may withdrawal approval if any of the conditions change, and that includes an enforcement problem or the Liquor Board has a problem. **Commissioner Heavey** said his question is whether the word should be changed from "may" to "shall," so that if there is going to be any change in hours, there is a solution. This says if there is an approval, it "may" be withdrawn, not "shall" be withdrawn.

Commissioner Heavey moved that the rule be amended to say, "May allow closing hours to be adjusted up to 4:00 a.m. under the following conditions," and then add to subsection (d) that if the local law enforcement agency or another state agency withdraws permission. **Mr. Bishop** suggested adding to section 2 the phrase, "Upon any objection by any of the above, it shall be..." **Ms. Sutherland** said another option for a language changes would be to state, "The director may allow closing hours to be adjusted up to 4:00 a.m. so long as the following are met or remain in effect." **Commissioner Heavey** said that would be fine; he didn't have any particular language in mind, he just wanted to be sure about the local option. Also, the director does not have the discretion to change the hours or to maintain those hours if there is local opposition. **Commissioner Heavey** moved that in paragraph one, after the period of "a.m.," that the language to the colon be deleted and the following language be substituted, "...as long as the following conditions remain in effect." **Chairman Tull** seconded the motion.

Chairman Tull said he believes the new language will clear up the question that neither the director or other agencies are committed to a long-term situation if problems arise. Vote taken on the amendment; **Commissioner Heavey** and **Chairman Tull** voted aye; **Commissioner Graham** voted nay on the amendment, motion failed.

Ms. O'Neal asked if it was the Commission's intent to take final action on the rule as amended. **Chairman Tull** asked about the timeline with regard to the emergency filing of this rule. **Ms. Sutherland** said this rule was filed as an emergency in February (1995) and emergency rules are effective for 120 days so the emergency is good until June. **Director Miller** said that staff is monitoring very carefully and so far there have been no problems or objections. Continued monitoring may bring in some additional data for next month. **Chairman Tull** said he realizes it's difficult for those being affected by the rule changes, but he feels it's very helpful to have the opportunity to review the rule and study the effects. **Director Miller** said that more letters are being received as time passes, so the additional data may be helpful in this determination.

Chairman Tull said this item will be set over until the next agenda as amended, which is the June meeting is in Spokane.

HOUSEKEEPING CHANGES

Amendatory Section WAC 230-04-075 - No license required for certain bingo, raffles, and amusement games.

Amendatory Section WAC 230-20-090 - Limits on compensation paid to members or employees.

Amendatory Section WAC 230-20-170 - Bingo operation date limitations

Amendatory Section WAC 230-20-190 - Bingo card prices

Amendatory Section WAC 230-20-220 - Operators shall not play

Amendatory Section WAC 230-25-070 - Fund raising events--Central accounting system required

Amendatory Section WAC 230-20-630 - Amusement games--Fees, rules, prizes and variations in objects to be posted--Fees to be paid in cash or scrip((t))--Prizes not to differ from those posted

Amendatory Section WAC 230-25-055 - Use of chips, scrip((t)) or similar items at fund raising event

Amendatory Section WAC 230-25-330 - Recreational gaming activity--Rules for play

Amendatory Section WAC 230-46-010 - Purpose

Ms. Sutherland said Items 4A - 4J are housekeeping changes to correct typographical errors. These are up for final action.

Commissioner Graham moved for approval as presented; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

WASHINGTON STATE ASSOCIATION OF COUNTY TREASURERS' PETITION

Amendatory Section WAC 230-04-280 -- (~~Notification to law enforcement.~~) Licensees must notify law enforcement and local taxing authorities.

New Section WAC 230-04-405 -- Commission may seek reimbursement for costs incurred in pursuing license revocation for failure to pay gambling taxes.

Amendatory Section WAC 230-04-400 -- Denial, Suspension or Revocation of Licenses

Amendatory Section WAC 230-50-010 -- Adjudicated proceedings--Hearings

Ms. Sutherland said there are four rules up for final action and these rules have been on the agenda since November 1994. There has been significant discussion about the rules. The WSACT brought forth this package hoping to seek assistance in license revocation when they do not receive gambling taxes that are owed. One of the rules sets forth that taxing authorities would be notified of licensure, another rule specifies that licenses can be revoked for failure to pay gambling taxes, a third rule sets forth brief adjudicative proceedings procedures to be used in these instances, and the fourth rule pertains to the issue of agency cost incurred in pursuing these cases. Since the last meeting, Assistant Attorney General Jon McCoy, has done some research. Included in the Handout Packet is a memo from him regarding the agency's ability to assess the costs to the counties for the time spent on these cases. Jon believes it is within the authority of the agency, and its rules and laws essentially require the Commission to take action in these instances so it cannot pass the cost on directly. He did provide some alternatives: The agency can appoint an assistant director within the Gambling Commission to hear cases regarding the taxing authority's failure to receive their payments and allow the taxing authorities to intervene for purposes of presenting evidence. Under the present rule, counties are required to obtain a judgment before they bring these cases to the Commission. They have had a hard time getting judgments because their prosecutors are very busy. The amendments would cut costs by reducing assistant attorney general use but it would not cut costs in case settlements

because the Commission would probably expend most of its costs in settlement discussions. Counties hope the Commission can settle cases as long as the licensee continues to pay counties the taxes owed. Staff feels these issues need to be looked at more.

Director Miller said the way staff has always enforced the rule before this whole thing began was if the county or city received a judgment and asked staff for help, the Commission would go after the licensee. Counties have had a hard time getting their own people to get the judgments for them so they are asking the Commission to take a step in advance of getting a judgment. Staff gave the Commission some studies where they thought there would be some impact to the agency; staff tried to find a way to get the costs back. Staff wants to work with cities and counties, but not to a point where they are overburdened as well. If more time is needed or if the support is not there, some direction from the Commission would be helpful.

Doug Lasher, Clark County Treasurer, said they feel this is a cooperative effort and in the best interest of any new licensees in terms of the communication process. WSACT is willing to work with the Gambling Commission regarding the proposed way of handling the business and appreciates the Commission's help.

Commissioner Graham said the comment was made previously that the prosecutor is too busy. He asked whether Clark County prosecutors were just as busy. **Doug Lasher** said that all prosecutors are very busy but it is the process which they are trying to streamline. The issues are that they usually try to work with the licensee and work out some type of payment. Usually, it is a new licensee that may be unaware they have gambling taxes due. He said he understands it is a very time consuming process for the prosecutors to go through negotiations with the licensee. **Director Miller** said the Commission now notifies the taxing authority upon implementation of a license. **Commissioner Heavey** said that the first and second rule have not changed. This issue is whether the Commission wants to take on additional costs and move ahead with it and seek reimbursement from the county under some local agreement, or whether the Commission wants to seek reimbursement from the licensee who hasn't paid their taxes. **Commissioner Heavey** proposed that this rule be set aside until the June for a final decision. **Chairman Tull** said he would like to hear any public testimony; **Commissioner Heavey** asked under the first rule where it says, "before a licensee may operate in an authorized gambling activity, it must notify law enforcement and the local taxing authority," what happens if, after they open, the local authority came in and said they hadn't notified them of their gambling operation. He asked whether they would close the doors. **Director Miller** said it is just a requirement to start business. As an agency policy, staff are notifying the applicable agencies now. **Commissioner Graham** asked if the requirement that the licensee notifies law enforcement and local taxing authorities passes, would the Gambling Commission notify these people as well. **Director Miller** said the Commission has always notified local law enforcement and he believes it should continue to do so. Staff has also changed the application form for determining if applicants are current on their taxes. A lot of these problems have been resolved simply by policy; the only thing left is this requirement and if the Commission wants to make this an administrative action or let the counties do it judicially.

Ron Sellar, of the Washington State Licensed Beverage Association and owner of a tavern in Bremerton, said that out of the 2,300 licensees, there have been very few problems and little reason for the monumental discussion. He said there's not a problem here, so there's no reason to fix it. The new kid on the block is already notified they must notify the local

authorities. If they are denied a license, they can't buy products off the vendor trucks. He said 99 percent of the licensees are paying their taxes; he doesn't see a problem.

Chairman Tull asked for a review and if 5A mostly involves expansion of the notice requirements. **Director Miller** said that is correct. **Chairman Tull** said he is not compelled to support this rule. He said if he were a taxing authority, he would rather get notification from the Gambling Commission. As far as 5B, it is his observation that that change may be appropriate and would probably support it. He would support having the language adopted for non-payment of taxes being "willful disregard." It does not propose any new administrative burdens; it does make it clear that a local taxing authority that comes forward to the Commission with a petition could trigger a licensing matter. He said he thinks this is appropriate. **Director Miller** said 5C takes the hearing process and puts it into the brief adjudicative proceeding procedure so it's a very simple process. **Chairman Tull** said in 5D, the first sentence is almost fine if the words, "The Commission will" are removed and the words, "The Commission may," inserted and then stop the rule at that point, then he would be supportive of the rule. **Director Miller** asked about the next sentence that the Commission will seek reimbursement; and by that he means if the case is settled by the Commission, staff will seek reimbursement from the licensee as a condition for getting the license back. **Chairman Tull** said the first two sentences would remain.

Commissioner Heavey said the only problem he has on 5D is the wording and that the Commission has no discretion with regard to initiating a license revocation action. So the first "will" is changed to "may" and the second "will" remains. **Commission Heavey** made the motion to approve the rules as amended. **Chairman Tull** suggested taking each rule separately. **Chairman Tull** moved that 5A be withdrawn because the rule is covered in other sections. **Commissioner Graham** seconded the motion. **Chairman Tull** said the motion would be to not adopt 5A. This is based on the understanding that the Commission would continue the practice of notifying the tax authority. The rule that would remain in effect requires the licensee to notify local law enforcement. Motion carried to withdraw 5A with three aye votes. **Chairman Tull** said he would move to adopt 5B as it clarifies the power of Commission staff to go forward in these cases and makes more clear that payment at the local level of these taxes is of concern to the Commission in the enforcement of its licensing duties. He moved that 5B be approved today.

Chairman Tull asked Ms. O'Neal if, since he did not have a second to his motion, could he withdraw it and set it over. **Ms. O'Neal** said with the lack of a second to Chairman Tull's motion, the motion dies. **Chairman Tull** said since there is no motion and the Commission will refer back to Item 5B at the end of the discussion.

Director Miller said that 5C would not be relevant without 5B; this gives the Commission the authority to bring these cases before the Administrative Law Judge and the Administrative Law Judge can then make a ruling. **Chairman Tull** asked whether the Administrative Law Judge has ruled that not paying taxes after notice is not willful disregard. **Director Miller** said this rule would clarify that the Commission does not need the judgment; staff could do it without the judgment. **Chairman Tull** said he moved for the adoption of 5C although it does have reference to a specific section of a rule in limbo. **Commission Heavey** said that section still exists but without the added language. **Chairman Tull** agreed and said they were talking about adding two lines to WAC 230-50-010. **Mr. Bishop** said staff would like to have section 6(C). Section 6(C) refers to using the brief adjudicative proceeding when a licensee fails to make the second part of their payment of a license fee under the two-part payment plan. Right now, staff

has to go through the full hearing process since it isn't allowed under brief adjudicative proceeding hearing and it should be a straight forward issue. **Chairman Tull** said this is actually separate. Item 6D could be adopted and he moved for adoption of 6D. **Commissioner Heavey** seconded the motion; motion carried with three aye votes. **Commissioner Heavey** said items 6C and 5, that amendment is really not related to the tax issue because at the present time, they can revoke for non-payment of taxes if there is a judgment; that is what they are doing. This would shorten up that procedure for any of these, the short hearing would be to demonstrate willful disregard for complying with ordinances, statutes, and administrative rules, or court orders at the local, state, and federal level. **Chairman Tull** said he agreed. He proposed that the parenthetical phrase, "failure to pay required gambling taxes," be stricken. **Commissioner Heavey** said they could still do that if there is a judgment. **Chairman Tull** said he wouldn't want that to only be referring to that particular type of triggering of number three. So the motion would be to adopt the proposed amendment to item 6C as follows, "Hearings held pursuant to WAC 230-04-400(3)," and delete the remainder of the sentence. **Ms. O'Neal** asked if it was staff's intent to use brief adjudicative proceedings for other kinds of violations of that section 3. **Director Miller** said staff believes it would be helpful to have brief adjudicative proceedings for other issues; however, it was staff's intent to use this for taxes only. **Ms. O'Neal** said staff could try it and that she can think of some proceedings where it might work.

Chairman Tull said the motion and second is to adopt the language, "Hearings held pursuant to WAC 230-04-400(3)." **Director Miller** said that by taking the parenthetical phrase out, it is contrary to his last comments; staff would have to use the brief adjudicative proceeding for that entire section for any type of action that comes in. By leaving the parenthetical in, it allows for just tax issues to use brief adjudicative proceedings. He said staff liked the language and would like to have the parenthetical in. **Ms. O'Neal** said based on her experience doing the Commission's hearings, the vast majority of cases where licensees willfully disobeyed a law or rule, tend to be too involved for a brief adjudicative proceeding.

Chairman Tull said those comments lead him to withdraw his motion and move on to some other rule with respect to paragraph 6(c). He said 5D has already had some discussion about changes and he moved to adopt the new section WAC 230-04-405 as published with the following amendments: In the first sentence, change the word "will" to "may" and to delete the third and final sentence of this paragraph. Also, the title of the rule will be changed to read, "Commission ((may)) will seek reimbursement for costs incurred in pursuing license revocation for failure to pay gambling taxes." **Commissioner Graham** said he gathers from WAC 230-04-405 that the Commission will seek reimbursement for costs incurred pursuing license revocation for failure to pay gambling taxes. **Chairman Tull** said he understood that to be correct and said that 5D will be held over until the June meeting; 5B had a motion to adopt that was unseconded. The intention would be to carry it over for the purpose determining if language needs to be added to give staff the enforcement tools it needs with respect to reporting. **Commissioner Heavey** seconded the motion. **Director Miller** asked if the motion was to refile 5B and 5D. **Chairman Tull** said correct. He said the reason he is not desirous of letting the rule die out today is that there may be different circumstances where the director ought to have the discretion to respond to complaints from local taxing authorities and to initiate some sort of licensing action. He said in the past, there had been some Administrative Law Judge decisions that apparently created confusion about the director's ability to do that. He believes the existing rule is pretty clear but those decisions have to be considered. He would want that to be adopted at some point. The motion is to refile 5B, the portion of 5C that pertains to paragraph

6(c), and the revised language in 5D. **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

LICENSING OF MANUFACTURERS/SALES PERMITS

Amendatory Section WAC 230-04-110 - Licensing of Manufacturers

New Section WAC 230-04-115 - Licensing of manufacturers--Exceptions--Special sales permit

Amendatory Section WAC 230-04-203 - Fee--Commercial stimulant and other business organizations

Ms. Sutherland said these rules were filed as emergency rules. They are up for final action this month. Items 6A - 6C set forth the procedure for the director to issue sales permits to manufacturers who would sell to tribal governments or distributors. Staff proposes a change to the language in WAC 230-04-110(1)(d), "Any gambling equipment, patented or otherwise restricted gaming schemes or paraphernalia for use in connection with licensed fund raising events ~~((or a))~~, recreational gaming ~~((activity))~~ activities, or tribal gaming activities ((authorized by state/tribal compacts)) or Class III tribal activities," and delete the language authorized by state/tribal compacts. **Chairman Tull** asked if Ms. Sutherland was requesting an amendment.

Ms. Sutherland said yes and read the rule as amended, "Any gambling equipment, patented or otherwise restricted gaming schemes, or paraphernalia for use in connection with licensed fund raising events, recreational gaming activities, or tribal gaming activities or Class III tribal activities." **Mr. Bishop** asked if Ms. Sutherland meant to strike gaming. **Ms. Sutherland** said correct. **Chairman Tull** asked if that same change would occur at the end of section 3.

Director Miller said only in the one spot.

Chairman Tull called for public comments and said there is a staff recommendation to adopt this proposed rule. No one came forward. **Commissioner Graham** moved for adoption along with the amendment offered by staff; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

PHASE II IMPLEMENTATION:

New Section WAC 230-48-010 Tribal-state compacts--Phase II commission review

Ms. Sutherland said Item 7 is a new section. It is also a new chapter under the Commission's WAC rules. It sets forth the procedure for Class III casinos with a compact to go from Phase I scope of gaming to Phase II scope of gaming, which involves higher wagering limits, longer hours of operation, and greater number of tables. It requires Commission approval for moving to Phase II. Staff recommends final adoption of this rule.

Chairman Tull asked if this rule could be held over another month. **Ms. Sutherland** answered yes. **Commissioner Heavey** said he wanted to recommend a wording change in paragraph E to change the word "strong" to "adequate." **Chairman Tull** said he would take that as a motion and he seconded the motion to amend the language; motion carried with three aye votes.

Chairman Tull asked if anyone in the audience wanted to testify on this rule. No one came forward.

FOR DISCUSSION AND POSSIBLE FILING

LICENSE DENIAL OR REVOCATION FOR DOING BUSINESS WITH ILLEGAL ENTITIES:

Ms. Sutherland said Section 8 is an amendment to WAC 230-04-400. It is before the Commission for discussion only with possible filing. The amendment broadens the rule that sets forth reasons for denial, suspension, or revocation of licenses to include as a basis for denial those who engage in any activity reflecting or bringing disrepute to Washington gaming, including doing business with those who conduct illegal gambling operations. She said staff has discussed this language and has a proposed change in language for the Commission. **Director Miller** said staff had withdrawn the emergency request and is asking for filing for further discussion. This rule is necessary because staff has established a very strong policy that it will not tolerate participation in activities the Commission deems to be illegal. **Chairman Tull** said this is before the Commission for filing for consideration. **Ms. Sutherland** said the proposed language change would delete the first sentence set forth in new subsection 10 and then would read, "is a supplier, manufacturer, financier, or management company who is providing goods or services to any entity who is illegally operating illegal gambling activities or who has illegally operated gambling activities." **Chairman Tull** ask for public testimony.

Eileen Desrochers, President of Washington Gaming, Incorporated, which is a distributorship of gaming equipment and general manager of Two Rivers, a business entity of the Spokane Tribe of Indians testified. She said this more or less states that non-compacted tribes are illegal and at this time she doesn't believe this has been determined. To revoke someone's license would be out of the jurisdiction of the Commission at this time. **Chairman Tull** asked if she meant the Spokane operation. **Ms. Desrochers** said she thinks it more or less hinders the integrity of the industry in Washington because they don't have a choice; the Commission will force the Two Rivers to buy from minor manufacturers by not allowing them to purchase from the larger ones. It has been her experience in the past when dealing with manufacturers, that the ones who are trying to get licensed in the state of Washington have flatly refused to deal with her because they have been threatened by the Commission. She would like to have a decision on this rule put off at this time until the federal government determines whether or not it is a legal activity. **Chairman Tull** asked if it was true that the U.S. Attorney in her district, as a prosecutor, decided it was illegal. **Ms. Desrochers** said that as far as the technicalities, she wasn't sure where that stood. **Chairman Tull** said that the Commission's position, at least his personally, would be the fact that the U.S. Attorney took action ought to be a strong signal to anyone involved in that phase of the industry. **Commissioner Heavey** said that his understanding is that there has been an order entered that establishes that the activity the Spokane Nation is involved in is illegal. **Ms. Desrochers** said that is correct, the district court for the Eastern District has ruled that way. **Commissioner Heavey** said his understanding is the order at the trial level is the final order until it is reversed. Thus, there is a final order that says the activity is illegal, but it is subject to appeal. **Director Miller** said the injunction and temporary restraining order will stay. **Commissioner Heavey** said that it's illegal so although they're not enjoined, they are still engaged in illegal activities. **Chairman Tull** asked if anyone else wanted to come forward.

Bruce Tower, representative of the Spokane Tribe, said he works for the attorney's office of the Spokane Tribe. He brought a statement by John Kieffer that he wanted to read for the record: "The Spokane Tribe will take all legal and political action necessary to defend Eileen Desrochers' rights and privileges to work with the Spokane Tribe. Attempts by the Washington State Gambling Commission to interfere with any person's decision to work with any noncompacted Tribe will be properly viewed as a direct attack on the sovereign government of

the Spokane Tribe.

The application of the proposed amendment to WAC 230-04-400 to persons or entities dealing with noncompacted tribes would contravene federal law. Prior to the passage of the Indian Gaming Regulatory Act of 1988 (IGRA), states had no jurisdiction over tribal gaming. IGRA provides for one, and only one, avenue for a state to have any jurisdiction over Spokane Indian Gaming, and that is via a tribal/state compact, which you can have by either negotiating with the Tribe in good faith, or submitting to the remedial provisions of IGRA - you know, that horrible draconian remedy of court-supervised mediation. Washington State refuses to negotiate in good faith, and refuses to consent to court-supervised mediation. Accordingly, Washington State has no jurisdiction, whatsoever, over Spokane Tribal gaming.

You took your complaint to the U.S. Attorney, who took legal action against the Tribe. The U.S. Attorney does have jurisdiction, and the Ninth Circuit ruled that the appropriate interim remedy for the Tribe is to allow it to continue to operate while your attorneys pursue an endless stream of challenges to the constitutional integrity of IGRA. That the Ninth Circuit's order drives all of you nuts does not give you the authority to interfere with Spokane tribal commerce. If you want jurisdiction over Spokane Tribal gaming, then negotiate in good faith. Otherwise, stay out of the Spokane Tribe's business.

You have to accept the consequences of challenging the constitutional integrity of IGRA. I remind you that your attorney convinced federal court judge Fremming Nielson, in Confederated Colville Tribes v. Washington, that IGRA violates the Tenth Amendment. Accordingly, Judge Nielson struck all of the compacting provisions from IGRA - he ruled there is no such thing as a tribal/state compact.

It is ironic that you have an arrogant love affair with state law and state authority, while at the same time you have an insulting disregard for federal law, and federal authority, much less tribal law and tribal authority.

Your attempts to keep tribes poor and subservient to you continue to be unconscionable, illegal, paternalistic, unwise, and at odds with the hearts and minds of the people of Washington State. As the Tribe has testified many times in the past, we hope our words have not fallen on deaf ears. The strategy of Washington State and other states adopting these bad faith tactics is wrong. The Spokane Tribe will continue to stand up for what is right, because in the end, what is right will prevail."

Chairman Tull asked for clarification that this statement is from John Kieffer and not the attorney's office of the Spokane Tribe. **Mr. Tower** said that is correct. **Chairman Tull** asked Mr. Tower if he was able to answer questions. **Mr. Tower** said some. **Chairman Tull** asked if Mr. Tower could answer questions on behalf of Mr. Kieffer. **Mr. Tower** said no. **Commissioner Graham** said being an attorney for the Spokane Tribe and being familiar with the Spokane Council, why is it John Kieffer is always quoted and the Chairman hardly ever says anything about it. **Mr. Tower** said that John Kieffer is in charge of the Tribal Gaming activities. **Commissioner Graham** asked if the Chairman concurred with Mr. Kieffer. **Mr. Tower** said he believed so but he couldn't make that statement officially. **Chairman Tull** asked if this statement was particularly directed by the Council or simply by Mr. Kieffer himself. **Mr. Tower** said by Mr. Kieffer; he didn't believe there was a Council vote if that is the question. **Chairman Tull** asked if anyone else wanted to comment on whether this should be filed for consideration. **Director Miller** said his comments were not directed toward the Spokane's; as the Commission knows, there is a pending lawsuit. He said this is an issue of licensing. He said that with the license comes certain conditions, one of which is dealing in legal environments. Currently, staff is looking at manufacturers all over the country involved in new casinos and has found certain situations where companies have been involved in illegal activities, not even tribal, so the

agency needs this authority to preserve the integrity of what is trying to be achieved and to ensure that the license process is as strong as desired for future actions.

Chairman Tull said the activities of licensees outside the jurisdiction is of great concern.

Director Miller said there was a recent incident in Nevada of a Nevada corporation involved with a tribal government in California. The tribal government brought in illegal devices unknown to the Nevada corporation. The slot machines were seized and the state of Nevada gave the tribal government the choice if they wanted to deal with the Nevada corporation, they had to get rid of the slot machines. The concern is not so much tribal but illegal activities.

Commissioner Graham moved for acceptance for further discussion and possible action.

Commissioner Heavey seconded the motion; motion carried with three aye votes.

UNFINISHED BUSINESS

Ms. Sutherland said in the Handout Packet under License Approvals behind the Paramount Games presentation is a memo from staff on the issue to be presented.

HOUSE RAFFLE: BIG BROTHERS/BIG SISTERS OF TACOMA AND PIERCE COUNTY

Ms. Norman-Cole said This is before the Commission because WAC 230-20-015 requires Commission approval for a licensee to exceed the \$40,000 prize limit for a single raffle or \$80,000 annual prize limitation. This organization is proposing and would like your approval to raffle a \$300,000 home, a \$15,000 automobile, and \$20,000 gift certificate for home furnishings. The raffle will be conducted between June 1 and December 1, 1995, and the drawing will be held on December 3, 1995. In addition to the grand prize, which is the home, the car, and the gift certificate for the home furnishings, there will be four early bird drawings of \$2,500 each to be held June 30, July 30, August 27, and September 24, 1995. The way those early bird drawings would work is everybody who bought tickets prior to June 30, 1995, would be entitled to that raffle of the \$2,500 and so on.

Ms. Norman-Cole said the organization has a tentative contract with the developer which is Sunrise Development Corporation of Washington, to build the dream home. Staff does have plans of the home if the Commissioners want to see them. This contract is contingent upon approval of the Commission. The home is to be located at the rim at Sunrise in Puyallup on South Hill. The purchase price of this property to the organization will be either the lesser of the net revenue generated by the raffle or the sum of \$50,000 plus the actual cost of construction to build the house including permits, closing costs, up to a maximum of \$200,000. In essence the organization could end up paying \$250,000 for this dream home. However, the organization will not pay the developer until all costs of the raffle including advertising and such are paid. After that, Sunrise will be paid to cover the purchase price of the home. After that point, any revenues would go to Big Brothers and Big Sisters. The contract does have a clause that ensures that if Big Brothers/Big Sisters does not make enough money to cover the cost of all prizes, in addition to the other expenses, then Sunrise will indemnify and guarantee reimbursement for the amount of the approved budget which is \$356,000. That would include all of the prizes and the costs to conduct the raffle. The prizes will be awarded regardless of how many tickets the organization sells. The organization is planning on getting donations from contractors to pay for the early bird prizes, they also hope to get sponsors to donate money to

cover the cost of the gift certificate for the home furnishings as well as the automobile.

Ms. Norman-Cole said WAC 230-20-300 does require that the merchandise prize be paid for in full without lien or interest prior to the drawing. The contract does call for the home to be in Big Brothers/Big Sisters name upon closing. Sylvia Anderson, the director of the organization, was at the Commission meeting to answer any questions from commissioners.

Sylvia Anderson, Executive Director of Big Brothers and Big Sisters of Tacoma and Pierce County, said the Big Brothers/Big Sisters of Edmondton, Canada, made a presentation on a dream house raffle. She said that organization has done 15 house raffles and the minimum amount that they have ever raised, which was for the first raffle, was \$50,000. They now do two raffles each year of a house and they make \$250,000 each which accounts for 50 percent of their budget. This agency will train the staff on how to hold this dream house raffle. They were approached by Sunrise Development because they initially were going to be part of the Puyallup Street of Dreams and they wanted another avenue that would benefit the community. Sunrise agreed to indemnify based on the information given to them; everything will be patterned after the Edmondton raffle. As far as the risk factor to Big Brothers/Big Sisters, it is possible that at the end of the project, they could end up without any cash in hand, but also the reality is they would not be out any cash. They have had a problem with name recognition being associated with Boys and Girls Clubs and they have been trying to establish a signature event that would give the name recognition they need. The Canadian raffle has produced an increase in volunteers as well as dollars. She asked if there were any questions.

Commissioner Graham asked for staff opinion on whether to approve this request or not. **Mr. Bishop** said staff has not had a chance to digest this proposal and there are some procedural problems with the way this will be run. **Ms. Anderson** asked if those problems could be worked out by talking to staff to accommodate the situation to what is acceptable.

Mr. Bishop said the procedural problems have to do with whether this is a raffle or a series of five raffles. Typically when someone enters a raffle, they pay \$5 and get a chance to participate for all the prizes. The fact that drawings are held on different days makes it different. **Ms.**

Anderson said that Big Brothers/Big Sisters is more than willing to accommodate the situation. If they have to change and only have one raffle, then that is what they will do.

Director Miller said that Ms. Norman-Cole has examined this very large raffle proposal and staff is committed to working with this organization. He said the question before the Commission is one of policy and the staff does not oppose this opportunity. **Mr. Bishop** said it should be made clear that the Commission would be approving a prize limit and not the event, per se. **Director Miller** agreed and said they still have to follow the rules.

Commissioner Heavey asked what the limit on raffle tickets is in Edmondton, Canada; **Ms. Anderson** said the limit is \$25 per ticket in Canada. **Ms. O'Neal** said the Attorney General's Office has been repeatedly contacted over the last several years asking about raffling off a house a person can't sell. The way it's done is with a raffle or an auction, or where the best essay gets the house. Because these aren't raffles, they sort of fall between the cracks. She said she feels there is a possibility of that type of thing happening with the Big Brothers/Big Sisters house raffle. **Ms. Anderson** said that she has looked at that issue and she knows of the one in Gig Harbor. People will see this house in the process of being built; it would be something they could watch being developed.

Commissioner Graham moved to approve this request. **Commissioner Heavey** seconded the motion. **Chairman Tull** said this is only to adjust the prize limit and not to approve the conduct of the raffle. He asked if this is the type of thing that can be worked out in two weeks. **Mr. Bishop** said yes. **Director Miller** said he believes the problems can be ironed out.

Ms. Norman-Cole said she has spoken with Ms. Anderson and Dan, who is the marketing director, and they talked at great length about this issue and there are a few items she didn't bring forward. She did list one in the memo that deals with the tax implications and that the participants need to understand what the tax implications are to them if they win, because it will be tremendous. She said this is a merchandise prize and the winner will have to pay taxes. **Chairman Tull** said he thought the organization would have one or two banks standing by with letters saying they will probably loan the winner the amount for taxes. **Ms. Anderson** said the organization is providing two hours free tax consultation time.

Chairman Tull asked if approving this would possibly cause problems with the Lottery Commission. **Director Miller** said he didn't believe so because this isn't their issue. **Chairman Tull** said the motion has been made and seconded. Vote taken; motion carried with three aye votes. **Chairman Tull** said this represents a fairly big ratchet up on the scale of fund raising prizes. He said he knows it is tough to raise money and other organizations may want to think about it once this one is completed.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

George Teeny, card room owner from La Center, said members of the Recreational Gaming Association are concerned with the expansion of tribal gaming and with the possibility that tribes may have more than one facility; specifically the Yakama Tribe's consideration of using more than one location. Their concern is that allowing a tribe to have a casino on off-reservation sites rather than trust land, then other tribes will push to have more than one facility. He said tribes can find a reason to have growth. What will open on allotment land is anything from bingo parlors to gas stations. He said it would open a can of worms.

Commissioner Graham said that IGRA says trust lands and reservation lands are the only two places where Class III facilities are allowed. **Director Miller** said that any land acquired after 1988 requires the approval of the Governor in order to use the land for Class III gaming. Staff has continually required the Class III operation to be on the reservation.

Kevin Crum, president of the WCCGA, said he seconds the speaker's concern that along with Mr. Teeny's industry it will affect Mr. Crum's industry as well. He said the WCCGA is responding to the tribal gaming initiative, which would legalize unrestricted gaming. The WCCGA has taken a leadership role and has formed a political action committee, and Don Kaufman is heading that group.

Don Kaufman, representing Citizens for Unrestricted Gambling, said the initiative was put forward by three tribes in the state and would involve going around the negotiating process and form a direct compact with the citizens of the state for unrestricted gambling including electro-mechanical devices. It also deals with the issue of where casinos would be allowed to open,

and clearly states on any land that is owned by the Indians; it doesn't say whether that is currently or in the future. He said initiative solicitors have been seen at a North Seattle Costco and recently came to collect signatures at a bingo game, which is a First Amendment right they apparently have, although the bingo hall can set some restrictions as to where they do this on its properties.

Mr. Kaufman said the initiative signatures are being collected under false pretenses. He called for the Washington State Gambling Commission to come forward and talk about what is true and what is factual because this is not a true and factual document. It talks about establishing a voter's dividend fund and talks about creating thousands of jobs, it doesn't talk about the jobs that will be lost. It talks about fighting the state bureaucrats who want to limit gaming revenue only to the special interest groups who lobby them. He said he has never seen the Gambling Commission deny a license to anyone who is a citizen of the state and was a non-felon. The statement he thought the Commission would really enjoy is the one that says provides for strict state and tribal oversight of tribal gaming facilities. He agrees that the state would be dropping back 40 years in this nation's progress if this initiative is passed. He would like to see the Gambling Commission make a press release and state what this initiative really means to the state.

Chairman Tull asked where the Commission can turn for clarification of a ballot issue such as this initiative. **Ms. O'Neal** said the Commission's legal counsel can provide advice. There is a state statute, 42.17.130, which prohibits public funds or public facilities from being used in any way directly or indirectly to support or oppose a ballot measure. The exception to that is for normal and regular conduct by an agency. The agency has the right under that exception to take a public vote in a public meeting to oppose the initiative or to support it. The agency has a limited right, assuming statutory authority, to communicate with the public as to the basis for conducting gaming; it has a limited right to communicate a factual, balanced piece that analyzes what the initiative would or would not do. Again, it has to be balanced.

Commissioner Graham requested that the commissioners be provided with a copy of what Mr. Kaufman was referring to regarding the initiative language. **Director Miller** asked if the Commissioner would like to continue this discussion next month. **Chairman Tull** requested the director receive from the Attorney General's Office the options of the Commission, general and specific in nature, and what limits are set.

Chairman Tull asked if there any further public comments; no one came forward. He adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant